

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Request for Review by	)	CC Docket No. 02-6
Chicago Public Schools, Chicago, Illinois,	)	
of Decisions of the	)	CC Docket No. 96-45
Universal Service Administrator	)	
	)	
Schools and Libraries Universal	)	FRN 1439048
Service Support Mechanism	)	

To: Secretary, Federal Communications Commission

**REQUEST FOR REVIEW AND REQUEST FOR WAIVER BY CHICAGO PUBLIC  
SCHOOLS OF DECISIONS OF THE UNIVERSAL SERVICE ADMINISTRATOR**

The Board of Education of the City of Chicago (“Chicago Public Schools” or “CPS”) respectfully requests, pursuant to Sections 1.3 and 54.719 through 54.724 of the Federal Communications Commission’s (“Commission”) rules,<sup>1</sup> that the Commission review Universal Service Administrative Company (“USAC”) Schools and Libraries Division (the “Division”) decisions denying CPS’s non-recurring services implementation deadline extension request and subsequent appeal for Funding Request Number (“FRN”) 1439048 under the schools and libraries universal service support mechanism, also known as the “E-rate” program.<sup>2</sup> As discussed below, these denials are contrary to the Commission’s E-rate policy and recent E-rate decisions concerning inadvertent ministerial or clerical errors. Therefore, CPS requests that the Commission authorize CPS’s deadline extension request, waiving its rules to the extent necessary,

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<sup>1</sup> 47 C.F.R. §§ 1.3, 54.719-54.724.

<sup>2</sup> See *Administrator’s Decision on Implementation Extension Request*, Letter of September 30, 2009, to Arshele Stevens, CPS (“Administrator’s Decision”), and *Administrator’s Decision on Implementation Extension Appeal*, Letter of January 21, 2010, to Barton J. Taylor, CPS (“Administrator’s Decision on Appeal”), attached as part of Appendix A. CPS is the Billed Entity for this FRN, and its Billed Entity Number, or “BEN,” is 135749.

and then remand the underlying application to USAC for processing.

## **I. STATEMENT OF INTEREST AND RELEVANT FACTS**

CPS is the third largest school district in the United States, educating more than 433,000 students – the vast majority of whom come from low- and moderate-income households. The school system operates twenty-eight organizational areas over 640 locations, including elementary schools (Pre-K–4), middle schools (5–8), high schools (9–12), alternative learning centers, various support centers (maintenance, transportation, records, etc.), and administrative offices.

Under the Commission’s E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections. Since 1998, CPS has used E-rate funds to help close the digital divide throughout the city of Chicago by providing robust Internet access through the latest telecommunications and internal connections technologies. With the assistance of E-rate funds, CPS has also been working aggressively to complete a multi-year converged hybrid voice/data network equipment and services project (the “Project”).

On December 5, 2006, the Division approved a Funding Year (“FY”) 2006 application from CPS for E-rate support. Specifically, the Division approved FRN 1439048 (with a funding status of “Funded”), which sought funding for eligible one-time or “non-recurring” charges for the Project and had a \$4,252,723.37 funding commitment, a service start date of July 1, 2006, a contract expiration date of June 30, 2007, and a deadline for delivery and installation of services of September 30, 2007.<sup>3</sup> The Division had previously approved CPS E-rate applications related to the Project, including FY 2004 FRN 1151212 and FY 2005 FRN 1285646.

On May 11, 2007, CPS timely requested an implementation deadline extension for

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<sup>3</sup> See Appendix A. FRN 1439048 was associated with Form 471 Application Number 517618.

FY 2006 FRN 1439048 because its service provider was unable to complete the implementation for reasons beyond the service provider's control ("Original Extension Request").<sup>4</sup> Work on FY 2006 FRN 1439048 was dependent upon completion of the installation of products and services from FY 2004 FRN 1151212 and FY 2005 FRN 1285646, and those projects had not yet been completed due to product substitutions (and related approvals), schedule overruns, and delivery delays.<sup>5</sup> CPS intended to request that the FY 2006 FRN 1439048 implementation deadline be extended until September 30, 2009. Unfortunately, CPS made a ministerial, clerical error in the Original Extension Request and inadvertently requested an extension only until September 30, 2008.<sup>6</sup> On July 2, 2007, the Division granted the implementation deadline extension request with the incorrect deadline.<sup>7</sup>

On July 27, 2009, CPS requested the originally intended implementation deadline extension for FY 2006 FRN 1439048 until September 30, 2009 because its service provider was unable to complete the implementation for reasons beyond the service provider's control.<sup>8</sup> The

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<sup>4</sup> See Letter from Robert W. Runcie, Chief Information Officer, CPS, to Schools and Libraries Division, USAC (dated May 11, 2007) ("Original Extension Request"), attached as part of Appendix A.

<sup>5</sup> *Id.* CPS received a Funding Commitment Decision Letter ("FCDL") for FY 2004 FRN 1151212 on January 11, 2005. Because almost 11 months had passed between the submission of the Form 471 and the issuance of the FCDL, certain products had been updated or replaced. CPS received approval for the substitution on September 28, 2005, at which point its service provider was able to proceed with delivery and installation.

<sup>6</sup> See Original Extension Request; see also Letter from Barton J. Taylor, E-Rate Director, CPS, to Schools and Libraries Division, USAC, 2 (dated Nov. 29, 2009) ("CPS November 2009 Appeal"), attached as part of Appendix A.

<sup>7</sup> See *Administrator's Decision on Implementation Extension Request*, Letter of July 2, 2007, to Robert W. Runcie, CPS ("Original Extension Approval"), attached as part of Appendix A. The Division had also granted FY 2004 FRN 1151212 an implementation service delivery extension until September 30, 2007; it granted FY 2005 FRN 1285646 an implementation service delivery extension until September 30, 2008.

<sup>8</sup> See Letter from Arshele Stevens, Chief Information Officer, CPS, to Schools and Libraries Division, USAC (dated July 23, 2009) ("Amended Extension Request"), attached as part of Appendix A. CPS also requested an implementation service delivery extension for FY 2007 FRN 1569241 until September 30, 2010.

Division denied this request on September 30, 2009, stating that it had been received after the Commission's deadline for such extension requests.<sup>9</sup> CPS appealed the decision on November 29, 2009,<sup>10</sup> and the Division denied the appeal on January 21, 2010.<sup>11</sup> CPS now timely submits this appeal of the Division's decisions and requests that the Commission review those decisions and find that they were in error, grant any necessary waivers, and direct the Division to process CPS's extension request.

## II. DISCUSSION

Section 54.507 of the Commission's rules requires recipients of E-rate commitments to complete the work covered by contracts with service providers for non-recurring services by September 30 following the close of the funding year. However, applicants may request an extension of the September 30 deadline to install non-recurring services in certain circumstances, including where the applicant's service provider is unable to complete the implementation for reasons beyond the service provider's control.<sup>12</sup> Extension requests must be submitted to USAC on or before the September 30 deadline.<sup>13</sup> In addition, the Commission may waive any provision of its rules for good cause shown.<sup>14</sup> A rule may be waived where the particular facts make strict compliance inconsistent with the public interest,<sup>15</sup> and the Commission may take into account

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<sup>9</sup> See Administrator's Decision. The Division granted the implementation service delivery extension for FY 2007 FRN 1569241 until September 30, 2010.

<sup>10</sup> See CPS November 2009 Appeal.

<sup>11</sup> See Administrator's Decision on Appeal.

<sup>12</sup> 47 C.F.R. § 54.507(d).

<sup>13</sup> See USAC website, Service Delivery Deadlines and Extension Requests, <http://www.universalservice.org/sl/applicants/step11/service-deadlines-extension-requests.aspx> (last visited Mar. 4, 2010); see also *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 16 FCC Rcd 13510, 13514 ¶ 15 (2001).

<sup>14</sup> 47 C.F.R. § 1.3.

<sup>15</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>16</sup>

As mentioned above, CPS timely requested – and was granted – an implementation deadline extension for FY 2006 FRN 1439048. Because of an inadvertent ministerial or clerical error, however, CPS requested an extension only until September 30, 2008 instead of September 30, 2009. When CPS later sought to correct that error and obtain the extension for the intended period, the Division denied the extension because the remedying request had been received after the Commission’s deadline for such extension requests. Consistent with Commission E-rate policy as reflected in the recent *Hemet Order* regarding similar E-rate ministerial or clerical errors in extension requests, as well as the Commission’s decision in the *Bishop Perry Order* and the Wireline Competition Bureau’s (“Bureau”) decision in the *Great Rivers Order*, the Commission should grant CPS’s appeal of the Division’s denials and remand the underlying application and extension request to USAC for processing.<sup>17</sup>

In the *Hemet Order*, the Bureau’s Telecommunications Access Policy Division (“TAPD”) granted review of a Division decision in which the Division had denied Hemet Unified School District’s (“Hemet”) request for an extension of the September 30 non-recurring services

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<sup>16</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972). In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule. *Northeast Cellular*, 897 F.2d at 1166.

<sup>17</sup> *Request for Review of a Decision of the Universal Service Administrator by Hemet Unified School District, Hemet CA*, Order, 24 FCC Rcd 12725 (WCB Telecom. Acc. Pol. Div. 2009) (“*Hemet Order*”) (granting a request for review where applicant’s extension request of the September 30 deadline included clerical errors); *Request for Waiver of the Decision of the Universal Service Administrator by Great Rivers Education Cooperative and I-K Electric Company*, Order, 21 FCC Rcd 14115 (WCB 2006) (“*Great Rivers Order*”) (granting applicant waiver of the September 30 deadline to submit deadline extension requests); *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, New Orleans, LA, et al.*, Order, 21 FCC Rcd 5316 (2006) (“*Bishop Perry Order*”) (granting waivers where applicants made ministerial or clerical errors).

deadline.<sup>18</sup> Hemet timely filed an extension request for 25 FRNs because of delays that were beyond its service provider’s control.<sup>19</sup> Later, after the September 30 deadline for filing extension requests had passed, Hemet notified the Division that it had mistakenly and inadvertently omitted four FRNs from its original, timely filed extension request and asked that those four FRNs be granted similar extensions.<sup>20</sup> The Division granted the extension for the 25 FRNs, but denied the extension for the remaining four FRNs that had been unintentionally omitted from the original request.<sup>21</sup> Finding that Hemet’s extension request for the four FRNs would have been granted on the merits if it had been timely filed and that the omission was simply a “ministerial or clerical error,” the TAPD granted Hemet’s request and remanded the underlying application to USAC for processing.<sup>22</sup> The facts of the instant proceeding are strikingly similar in all relevant respects to those in the *Hemet Order*, and the Commission should provide the same relief for CPS as it did for Hemet.

In addition to meeting the standard announced in the *Hemet Order*, CPS meets the standards for waiver established in prior E-Rate decisions, including the *Bishop Perry Order*, *Great Rivers Order*, and the *November 2000 Extension Order*.<sup>23</sup> Like prior applicants that have been granted waivers, special circumstances here warrant an extension of the implementation deadline.<sup>24</sup> Moreover, granting CPS a waiver would “alleviate potential hardships” resulting from

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<sup>18</sup> *Hemet Order*.

<sup>19</sup> *Id.* ¶ 3.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* ¶¶ 4-5.

<sup>23</sup> See *Great Rivers Order* ¶¶ 9-10; *Federal-State Joint Board on Universal Service*, Order, 15 FCC Rcd 21875 ¶ 6 (CCB 2000) (“*November 2000 Extension Order*”).

<sup>24</sup> See *Great Rivers Order* ¶ 9; *November 2000 Extension Order* ¶ 6.

the loss of \$4,252,723.37 in E-rate funding under FY 2006 FRN 1439048 due to a ministerial or clerical error.<sup>25</sup>

**A. CPS's Extension Request Would Have Been Granted on the Merits.**

Like Hemet and an applicant in the *Great Rivers Order*, CPS met the qualifying criteria for an extension but filed its extension request after the September 30 deadline.<sup>26</sup> Had CPS submitted a correct implementation deadline extension request for FY 2006 FRN 1439048 back in 2007 (seeking an extension until September 30, 2009 instead of September 30, 2008), the request would have been granted on the merits.

The Division granted CPS's Original Extension Request on the merits as submitted, on the grounds that the CPS's service provider was unable to complete the implementation for reasons beyond the service provider's control.<sup>27</sup> As mentioned above, work on FY 2006 FRN 1439048 was dependent upon completion of the installation of products and services from prior funding years, and those projects had not yet been completed due to product substitutions (and related approvals), schedule overruns, and delivery delays.<sup>28</sup> The Division also granted CPS's July 27, 2009 extension request for FY 2007 FRN 1569241 on the merits, finding that CPS's service provider was unable to complete the implementation for reasons beyond the service provider's control. As reflected in the Administrator's Decision on Appeal, CPS's Amended Extension Request to extend the FY 2006 FRN 1439048 implementation deadline until September 30, 2009

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<sup>25</sup> *Id.*; see also *Chicago Public Schools, Chicago, Illinois*, Order, 17 FCC Rcd 17086 ¶¶ 10-11 (WCB 2002) (“*Chicago Order*”) (granting CPS a waiver of the non-recurring services deadline to avoid an “an impractical and unreasonable hardship” that would occur if its vendor were required to complete installations under an expedited schedule).

<sup>26</sup> See *id.* ¶ 5; *Great Rivers Order* ¶ 9.

<sup>27</sup> Original Extension Approval.

<sup>28</sup> See Original Extension Request.

was denied solely because it was late-filed.<sup>29</sup>

### **B. CPS Made an Inadvertent “Ministerial or Clerical Error.”**

Like Hemet, CPS submitted a timely filed implementation deadline extension request that contained an inadvertent, ministerial or clerical error. CPS intended to request an extension for FY 2006 FRN 1439048 until September 30, 2009, but instead made the request only until September 30, 2008. As mentioned above, work on FY 2006 FRN 1439048 was dependent upon completion of the installation of products and services from FY 2004 FRN 1151212 and FY 2005 FRN 1285646, and those projects had not yet been completed due to product substitutions (and related approvals), schedule overruns, and delivery delays. Supporting this intent, CPS notes that it requested and was granted a series of extensions all connected to the Project. The original extension requests sought and received were:

- An extension until September 30, 2007 for FY 2004 FRN 1151212;
- An extension until September 30, 2008 for FY 2005 FRN 1285646;
- An extension until September 30, 2008 for FY 2006 FRN 1439048; and
- An extension until September 30, 2010 for FY 2007 FRN 1569241.

However, the more logical extension pattern, given the interrelationships between the various project funding requests for FY 2004-FY 2007, would have been:

- An extension until September 30, 2007 for FY 2004 FRN 1151212;
- An extension until September 30, 2008 for FY 2005 FRN 1285646;
- An extension until September 30, 2009 for FY 2006 FRN 1439048; and
- An extension until September 30, 2010 for FY 2007 FRN 1569241.

When work covered under FY 2004 FRN 1151212 was delayed, it created a ripple effect for service delivery extensions that created the need for the FY 2005 FRN 1285646 extension and the request for a September 30, 2009 implementation deadline for FY 2006 FRN 1439048. As CPS indicated to the Division, CPS’s service provider could not complete the implementations by the

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<sup>29</sup> Administrator’s Decision on Appeal at 1.



original deadlines without cost increases and substantial disruptions to CPS classrooms.<sup>30</sup>

This type of ministerial or clerical error is also similar to those discussed in the *Bishop Perry Order*, for which the Commission granted deadline waivers.<sup>31</sup> In the *Bishop Perry Order*, the Commission found that good cause existed for such waivers in part because, like the instant situation, the late filings were procedural errors, not substantive violations, and there was no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements.<sup>32</sup> In addition, like the applicants in the *Great Rivers Order*, CPS “tried, in good faith, to comply in a timely manner with all applicable program rules.”<sup>33</sup>

Moreover, as was true for the E-Rate applicants in the *Bishop Perry Order*, “rigid compliance with USAC’s application procedures in this instance would not further the purposes of section 254(h) or serve the public interest,” and “denial of funding in these cases would inflict undue hardship.”<sup>34</sup> Rigid compliance would result in reduced technology, connectivity, and educational opportunities for the neediest students served by CPS. It would also be technologically wasteful, economically disastrous,<sup>35</sup> and educationally disruptive, and negatively affect CPS’s ability to complete the Project. CPS also notes that because funding has already been approved and committed by USAC for FY 2006 FRN 1439048, there is no harm in authorizing CPS’s Amended Extension Request.<sup>36</sup> Thus, given the special circumstances involved and the mere ministerial or clerical error at issue in this appeal, it is in the public interest for the

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<sup>30</sup> CPS November 2009 Appeal at 2.

<sup>31</sup> *Bishop Perry Order* ¶ 8.

<sup>32</sup> *Id.* ¶ 14.

<sup>33</sup> *See Great Rivers Order* ¶ 9.

<sup>34</sup> *Bishop Perry Order* ¶ 14; *see also Chicago Order* ¶¶ 10-11.

<sup>35</sup> As mentioned above, FY 2006 FRN 1439048 has a \$4,252,723.37 funding commitment.

Commission to authorize CPS's Amended Extension Request.<sup>37</sup>

### III. CONCLUSION

Based on the foregoing, CPS requests that the Commission waive its rules as necessary to authorize CPS's September 30, 2009 implementation deadline request for FY 2006 FRN 1439048. In requesting service implementation deadline extensions, CPS acted in the interest of its neediest students and within the spirit of the E-rate program. CPS faces financial hardships similar to those faced by many large, urban school districts, and the E-rate program helps ensure that students at schools with the greatest need continue to have enhanced learning opportunities. CPS also has a long history of compliance with the E-rate rules. Finally, to ensure that this matter is resolved expeditiously, CPS respectfully requests that if the Commission authorizes the September 30, 2009 implementation deadline request for FY 2006 FRN 1439048, it also direct USAC to complete its review of the application and issue an award or denial no later than 60 days after the Commission releases its decision.<sup>38</sup>

Respectfully submitted,

Arshele Stevens  
Chief Information Officer  
Chicago Public Schools  
125 S. Clark Street, 3rd Floor  
Chicago, IL 60603  
(773) 553-1300

March 22, 2010

/s/ Ari Q. Fitzgerald  
Ari Q. Fitzgerald  
Mark W. Brennan  
HOGAN & HARTSON LLP  
555 13th Street, NW  
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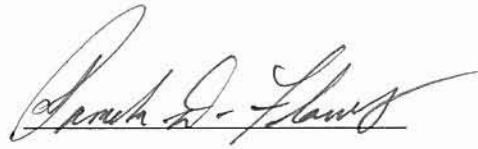
<sup>36</sup> See *Great Rivers Order* ¶ 10.

<sup>37</sup> See *id.* ¶ 9; *November 2000 Extension Order* ¶ 6.

<sup>38</sup> See *Great Rivers Order* ¶ 1 and *Bishop Perry Order* ¶ 1 for prior instances where the Commission directed USAC to issue a decision within 60 days.

### VERIFICATION

I, Pamela D. Flowers, E-Rate Manager for the Chicago Public Schools, declare that I have read the foregoing Request for Review and Request for Waiver by Chicago Public Schools of Decisions of the Universal Service Administrator, and hereby verify under penalty of perjury that, to the best of my knowledge, information, and belief, the facts set forth therein are true and correct. Executed on March 22, 2010.

A handwritten signature in black ink, appearing to read "Pamela D. Flowers", written over a horizontal line.

Pamela D. Flowers  
E-Rate Manager  
Chicago Public Schools  
125 S. Clark Street, 3rd Floor  
Chicago, IL 60603  
(773) 553-1300

# APPENDIX A



**Universal Service Administrative Company**  
Schools & Libraries Division

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**FUNDING COMMITMENT DECISION LETTER**  
(Funding Year 2006: 07/01/2006 - 06/30/2007)

December 5, 2006

Jane Kratochvil  
CHICAGO PUBLIC SCHOOLS  
125 S CLARK ST, 3RD FLOOR  
CHICAGO, IL 60603

**Re: Form 471 Application Number: 517618**  
**Billed Entity Number (BEN): 135749**  
**Billed Entity FCC RN: 0008008971**  
**Applicant's Form Identifier: YR9-471-IntConn1-CPS**

Thank you for your Funding Year 2006 application for Universal Service Support and for any assistance you provided throughout our review. The current status of the funding request(s) in the Form 471 application cited above and featured in the Funding Commitment Report(s) (Report) at the end of this letter is as follows.

- The amount, \$4,252,723.37 is "Approved."
- The amount, \$13,286,589.00 is "As Yet Unfunded."

Please refer to the Report on the page following this letter for specific funding request decisions and explanations. The Universal Service Administrative Company (USAC) is also sending this information to your service provider(s) so preparations can begin for implementing your approved discount(s) after you file Form 486 (Receipt of Service Confirmation Form). A guide that provides a definition for each line of the Report precedes the Report.

A list of Important Reminders and Deadlines is included with this letter to assist you throughout the application process.

**NEXT STEPS**

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
- Review CIPA requirements
- File Form 486
- Invoice USAC using the Form 474 (service provider) or Form 472 (Billed Entity) - as products and services are being delivered and billed

**TO APPEAL THIS DECISION:**

If you wish to appeal a decision in this letter, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the letter and the decision you are appealing:
  - Appellant name,
  - Applicant name and service provider name, if different from appellant,
  - Applicant BEN and Service Provider Identification Number (SPIN),
  - Form 471 Application Number 517618 as assigned by USAC,
  - "Funding Commitment Decision Letter for Funding Year 2006," AND
  - The exact text or the decision that you are appealing.

3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org). USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to USAC by fax, fax your appeal to (973) 599-6542.

To submit your appeal to USAC on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division - Correspondence Unit  
100 South Jefferson Road  
P.O. Box 902  
Whippany, New Jersey 07981

While we encourage you to resolve your appeal with USAC first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

#### NOTICE ON RULES AND FUNDS AVAILABILITY

An applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division  
Universal Service Administrative Company

## A GUIDE TO THE FUNDING COMMITMENT REPORT

A report for each funding request in your application is attached to this letter. We are providing the following definitions for the items in that report.

**FORM 471 APPLICATION NUMBER:** The unique identifier assigned to a Form 471 application by USAC.

**FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by USAC to each Block 5 of your Form 471. This number is used to report to applicants and service providers the status of individual funding requests submitted.

**FUNDING STATUS:** Each FRN will have one of the following statuses:

1. "Funded" - the FRN is approved for support. The funding level will generally be the level requested unless USAC determined during the application review process that some adjustment is appropriate.
2. "Not Funded" - the FRN is one for which no funds were committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for the Funding Year was insufficient to fund all requests.
3. "As Yet Unfunded" - a temporary status assigned to an FRN when USAC is uncertain at the time the letter is sent about whether sufficient funds exist to make commitments for requests for Internal Connections Other than Basic Maintenance or Basic Maintenance of Internal Connections at a particular discount level. For example, if your application included requests for discounts on both Telecommunications Services and Internal Connections, you might receive a letter with funding commitments for your Telecommunications Services funding requests and with an "As Yet Unfunded" status on your Internal Connections requests. You would receive one or more subsequent letters regarding the funding decisions on your Internal Connections requests.

**CATEGORY OF SERVICE:** The type of service ordered from the service provider, as shown on your Form 471.

**FORM 470 APPLICATION NUMBER:** The Form 470 Application Number associated with this FRN from Block 5, Item 12 of the Form 471.

**SPIN (Service Provider Identification Number):** A unique number assigned by USAC to service providers seeking payment from the Universal Service Fund Programs. A SPIN is also used to verify delivery of services and to arrange for payment.

**SERVICE PROVIDER NAME:** The legal name of the service provider.

**CONTRACT NUMBER:** The number of the contract between the eligible party and the service provider, if a contract number was provided on your Form 471.

**BILLING ACCOUNT NUMBER:** The account number that your service provider has established with you for billing purposes, if a Billing Account Number was provided on your Form 471.

**SERVICE START DATE:** The Service Start Date for this FRN from Block 5, Item 19 of your Form 471.

**CONTRACT EXPIRATION DATE:** The Contract Expiration Date for this FRN from Block 5, Item 20b of your Form 471, if a contract expiration date was provided on your Form 471.

**SITE IDENTIFIER:** The Entity Number listed in Form 471, Block 5, Item 22a for "site specific" FRNs only.

**NUMBER OF MONTHS RECURRING SERVICE PROVIDED IN FUNDING YEAR:** The number of months of service that has been approved for the funding year, for recurring services.

**ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES:** Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service approved for the funding year.

**ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES:** Annual eligible non-recurring charges approved for the funding year.

**PRE-DISCOUNT AMOUNT:** Amount in Form 471, Block 5, Item 23I, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY USAC: The discount rate that USAC approved for this service.

FUNDING COMMITMENT DECISION: The total amount of funding that USAC has reserved to reimburse your service provider for the approved discounts for this service for this funding year. It is important that both you and your service provider recognize that USAC should be invoiced and that disbursement of funds will be made only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry provides an explanation of the amount in the "Funding Commitment Decision."

FCDL DATE: The date of this Funding Commitment Decision Letter (FCDL).

WAVE NUMBER: The wave number assigned to FCDLs issued on this date.

LAST ALLOWABLE DATE FOR DELIVERY AND INSTALLATION FOR NON-RECURRING SERVICES: The last date approved by the FCC for delivery and installation of eligible non-recurring services (e.g., equipment). (The last allowable date for delivery and installation of recurring services is always the last day of the fund year, that is, June 30, 2007 for Funding Year 2006.)



FUNDING COMMITMENT REPORT  
Billed Entity Name: CHICAGO PUBLIC SCHOOLS  
BEN: 135749  
Funding Year: 2006

Form 471 Application Number: 517618  
Funding Request Number: 1438810  
Funding Status: As Yet Unfunded  
Category of Service: Internal Connections  
Form 470 Application Number: 156520000497783  
SPIN: 143004812  
Service Provider Name: SBC Datacomm, Inc.  
Contract Number: Ameritech 3-A  
Billing Account Number: N/A  
Service Start Date: 07/01/2006  
Contract Expiration Date: 09/25/2007  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges:  
Annual Pre-discount Amount for Eligible Non-recurring Charges:  
Pre-discount Amount:  
Discount Percentage Approved by the USAC:  
Funding Commitment Decision:

FCDL Date: 12/05/2006

Wave Number: 033

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2007

Funding Request Number: 1438900  
Funding Status: As Yet Unfunded  
Category of Service: Internal Connections  
Form 470 Application Number: 169180000543051  
SPIN: 143007126  
Service Provider Name: Sun Microsystems  
Contract Number: 05-250034  
Billing Account Number: N/A  
Service Start Date: 07/01/2006  
Contract Expiration Date: 06/30/2007  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges:  
Annual Pre-discount Amount for Eligible Non-recurring Charges:  
Pre-discount Amount:  
Discount Percentage Approved by the USAC:  
Funding Commitment Decision:

FCDL Date: 12/05/2006

Wave Number: 033

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2007

FUNDING COMMITMENT REPORT  
Billed Entity Name: CHICAGO PUBLIC SCHOOLS  
BEN: 135749  
Funding Year: 2006

Form 471 Application Number: 517618  
Funding Request Number: 1439048  
Funding Status: Funded  
Category of Service: Internal Connections  
Form 470 Application Number: 127075000457992  
SPIN: 143005046  
Service Provider Name: Mitel Networks Inc.  
Contract Number: 03-1217-PR22  
Billing Account Number: N/A  
Service Start Date: 07/01/2006  
Contract Expiration Date: 06/30/2007  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$4,832,640.19  
Pre-discount Amount: \$4,832,640.19  
Discount Percentage Approved by the USAC: 88%  
Funding Commitment Decision: \$4,252,723.37 - FRN approved; modified by SLD  
Funding Commitment Decision Explanation: The dollars requested were reduced to  
remove: the ineligible 7100 Management Access Points and associated costs.

FCDL Date: 12/05/2006  
Wave Number: 033  
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2007

Funding Request Number: 1439123  
Funding Status: As Yet Unfunded  
Category of Service: Internal Connections  
Form 470 Application Number: 156520000497783  
SPIN: 143004812  
Service Provider Name: SBC Datacomm, Inc.  
Contract Number: Ameritech 3-A  
Billing Account Number: N/A  
Service Start Date: 07/01/2006  
Contract Expiration Date: 09/25/2007  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges:  
Annual Pre-discount Amount for Eligible Non-recurring Charges:  
Pre-discount Amount:  
Discount Percentage Approved by the USAC:  
Funding Commitment Decision:

FCDL Date: 12/05/2006  
Wave Number: 033  
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2007

FUNDING COMMITMENT REPORT  
Billed Entity Name: CHICAGO PUBLIC SCHOOLS  
BEN: 135749  
Funding Year: 2006

Form 471 Application Number: 517618  
Funding Request Number: 1439187  
Funding Status: As Yet Unfunded  
Category of Service: Internal Connections  
Form 470 Application Number: 169180000543051  
SPIN: 143007126  
Service Provider Name: Sun Microsystems  
Contract Number: 05-250034  
Billing Account Number: N/A  
Service Start Date: 07/01/2006  
Contract Expiration Date: 06/30/2007  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges:  
Annual Pre-discount Amount for Eligible Non-recurring Charges:  
Pre-discount Amount:  
Discount Percentage Approved by the USAC:  
Funding Commitment Decision:  
  
FCDL Date: 12/05/2006  
Wave Number: 033  
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2007

# USAC

Schools and Libraries Division  
Correspondence Unit  
100 South Jefferson Road  
P.O. Box 902  
Whippany, New Jersey 07981

## TIME SENSITIVE MATERIAL

00275  
Jane Kratochvil  
CHICAGO PUBLIC SCHOOLS  
125 S CLARK ST, 3RD FLOOR  
CHICAGO, IL 60603



## IMPORTANT REMINDERS & DEADLINES

Form 471 Application Number: 517618  
Billed Entity Number: 135749  
Name of Billed Entity: CHICAGO PUBLIC SCHOOLS

**YOUR NEXT STEPS IN THE APPLICATION PROCESS:** Following are steps to assist you through the application process. Web page URLs are included to facilitate access to additional information on USAC's website.

**REVIEW TECHNOLOGY PLANNING REQUIREMENTS** - Program rules require a technology plan based on an assessment of needs and that those plans be approved before the start of services. See "Develop a Technology Plan" at <http://www.usac.org/sl/applicants/step02/> for information about technology plan requirements and approvals.

**REVIEW CHILDREN'S INTERNET PROTECTION ACT (CIPA) REQUIREMENTS** - CIPA compliance is required for requests for Internet Access, Internal Connections and Basic Maintenance discounts. For information about CIPA requirements and certifications, see "Children's Internet Protection Act (CIPA)" at <http://www.usac.org/sl/applicants/step10/cipa.aspx> for information about CIPA and its requirements.

**FILE FORM 486** - You must notify USAC of the start of service, the name of your USAC-certified technology plan approver and your compliance with CIPA on Form 486. See "Begin Receipt of Services" on our website at <http://www.usac.org/sl/applicants/step10/>.

**FORM 486 DEADLINE** - The Form 486 must be postmarked no later than 120 days after the Service Start Date featured in the Form 486 Notification Letter or no later than 120 days after the date of the Funding Commitment Decision Letter, whichever is later. Use the "Deadlines" calculator on our website at <http://www.usac.org/sl/tools/deadlines> to calculate your Form 486 deadline.

**INVOICE USAC** - After eligible services have been delivered, invoice USAC to request reimbursement of approved discounts. For information about requesting reimbursement from USAC, see "Invoice USAC" on our website at <http://www.usac.org/sl/applicants/step11/>.

**INVOICE DEADLINE** - Invoices must be postmarked no later than 120 days after the last date to receive service - including extensions - or 120 days after the date of the Form 486 Notification Letter, whichever is later. Use the "Deadlines" calculator on our website at <http://www.usac.org/sl/tools/deadlines> to calculate your invoice deadline.

**DOCUMENT RETENTION** - Documents related to the receipt of discounts must be retained for at least five years after the last day of service delivered. For more information, see "Document Retention Requirements" on our website at <http://www.usac.org/sl/about/document-retention-requirements/default.aspx>.

**OBLIGATION TO PAY NON-DISCOUNT PORTION/FREE SERVICES ADVISORY** - Applicants are required to pay the non-discount portion of the cost of the products and/or services. Service providers are required to bill applicants for the non-discount portion. For further information, see "Obligation to Pay Non-Discount Portion" on our website at <http://www.usac.org/sl/applicants/step11/obligation-to-pay.aspx> and "Free Services Advisory" at <http://www.usac.org/sl/applicants/step06/free-services-advisory.aspx>.

**SUSPENSION AND DEBARMENT** - Persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the Schools and Libraries Program are subject to suspension and debarment from the program. More information and a current list of persons who have been suspended or debarred is posted in "Suspensions and Debarments" on our website at <http://www.usac.org/sl/about/suspensions-debarments.aspx>.

**COMPLETE PROGRAM INFORMATION** - including more information on these reminders - is posted to the Schools and Libraries area of USAC's website at [www.usac.org/sl](http://www.usac.org/sl). You may also contact our Client Service Bureau using the "Submit a Question" link on our website, toll-free by fax at 1-888-276-8736 or toll-free by phone at 1-888-203-8100.

**Service Delivery Deadline Extension Request**

May 11, 2007

**VIA FEDERAL EXPRESS**

Service Delivery Extension Request  
Schools and Libraries Division  
Box 125 – Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981

**RE: Service Delivery Deadline Extension Request**

<b>Applicant Name:</b>	<b>Chicago Public Schools</b>
<b>Entity Number:</b>	<b>135749</b>
<b>Form 471 Application Numbers:</b>	<b>517618</b>
<b>Funding Request Number:</b>	<b>1439048</b>
<b>Funding Year:</b>	<b>FY 2006 (July 1, 2006-September 30, 2007)</b>
<b>Service Provider Name:</b>	<b>Mitel Networks, Inc. / SPIN # 143005046</b>
<b>Funding Commitment Amount:</b>	<b>\$4,252,723.37</b>

To Whom It May Concern:

Pursuant to the Federal Communications Commission's Non-recurring Services Order<sup>1</sup>, Chicago Public Schools ("the District") respectfully requests that the Schools and Libraries Division ("SLD") extend the service delivery deadline for the funding request ("FRN") referenced above from September 30, 2007 to September 30, 2008.

If the SLD concludes that it does not have authority under the Non-recurring Services Order to grant the extension, the District requests that the SLD forward this Extension Request to the Commission, and that the Commission treat it as a request to waive section 54.507(d) of the rules, as special circumstances exist to justify such a waiver.

Section 54.507(d) of the Commission's rules requires recipients of E-rate commitments to complete the work covered by contracts with service providers for non-recurring services by September 30 following the close of the funding year. However, the same section of the rules also states that applicants will qualify for an extension of the implementation deadline if they satisfy certain criteria:

(3) applicants whose service providers are unable to complete implementation for reasons beyond the service provider's control;

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<sup>1</sup> Federal-State Joint Board on Universal Service, Report and Order, CC Docket No. 96-45, 47 C.F.R. § 54.507(d)(1) – (4) (2001)



May 11, 2007

Page 2

Application # 517618 FRN 1439048 was issued an FCDL on December 5, 2006. More importantly, this previously mentioned FRN is dependent on the completion of the installation of products and services from application # 418317, FRN 1151212. As explained in further detail below, due to the dependency of this project with previous projects, coupled by schedule overruns due to the response of the product substitution, it is unrealistic to completely install these components by the prescribed deadlines. More so, when the project's efficiency is based on sequential installation and the previous funding year was delayed due to delivery issues and product substitution approvals, the results are a ripple effect for service delivery extensions.

The Chicago Public Schools, with over 413,000 students, is the third largest school system in the nation. As explained more fully below, it would be technologically wasteful, economically disastrous, and educationally disruptive for the District to require its service providers to attempt to complete this work by the end of the funding year for non-recurring services. Accordingly, for E-rate-related administrative reasons that are beyond anyone's control, the District's service provider cannot realistically be expected to complete the 2006 funding year implementation by the deadline of September 30<sup>th</sup>, 2007.

The following factors that are beyond the control of the District's service providers also prevent them from completing the work associated with the Year 2006 Internal Connections FRN 1439048 by September 30, 2007:

- **The District's Vendors Cannot Begin nor Complete Work on the FY 2006 until Implementation of FY 2004 Application # 418317, FRN 1151212 and FY 2005 Application # 517618 FRN 1439048 are Completed.**

On March 2, 2006, CPS filed and received a service delivery extension for application # 418317, FRN 1151212.<sup>2</sup> Implementation of the work covered by the approved 2004 product substitution is well underway; however, the work is not complete. As the work covered by the 2004 funding request includes key components to which the above FRN(s) project will connect, the work associated with the 2006 and 2005 funding requests cannot, in good conscience, be completed until the FY 2004 FRN 1151212 work has been completed. A decision to leapfrog the 2006 project over the work identified in FRN 1285646 and FRN 1151212 would result in increased costs and substantial disruptions to classrooms throughout the District as vendors struggle to complete the work by the September deadline.

More importantly, installing the 2006 and 2005 equipment ahead of FRN 1151212 equipment simply would not make any sense, economically or otherwise, as the benefit of increased speed and functionality, which the District would realize if the equipment is installed in the proper order, would be completely lost. In short, installing the 2005 equipment prematurely would be a waste of the District's and the SLD's money. It is evident, therefore, that the inability of the District's vendors to complete the 2005 project by the September 30<sup>th</sup>, 2007 deadline is the result of circumstances clearly beyond their control.

<sup>2</sup> On June 2, 2005, CPS filed a service substitution request for the purchase of Converged Hybrid Voice/Data Network Equipment and Services for Funding Year 2004. CPS received the approval on September 28<sup>th</sup>, 2005. Because a Funding Commitment Decision Letter (FCDL) was not issued by the SLD until January 11, 2005, CPS was unable to start the project as planned on July 1, 2004. Given the lapse of time between the submission of the Form 471 and the issuance of the FCDL—almost 11 months—certain products had been updated due to technological advancements and those originally specified in the application were no longer available. Since CPS had not yet received notice of approval from the SLD until September 28<sup>th</sup>, 2005, regarding the service substitution, Mitel Networks, Inc. was not able to proceed with and complete delivery and installation of all 200 sites for reasons beyond their control.

May 11, 2007  
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Specifically, the following issues need further consideration:

- ♦ Installation and equipment for FRN 1151212 will not be completed until September 30<sup>th</sup>, 2007

There is currently less than 5 months in which to complete the project during the implementation period within FY 2006 without a deadline extension. Therefore, given the delays in both the funding commitment and the service substitution review and approval and the additional time required to implement FRN 1285646 and FRN 1151212, coupled with the interdependencies it has with other subsequent projects, we respectfully request the service delivery deadline extension so that the project can be completed.

### **Request for Waiver**

In addition to the four specific extension-triggering events that the Commission included in its Non-recurring Services Order, the Commission has recognized repeatedly that other external circumstances can create “situations where deadlines are both impractical and unreasonable,” and that granting a waiver of section 54.507(d) of the rules in those circumstances is consistent with the Commission’s “long-standing policy of ensuring that applicants for non-recurring services are not penalized for delays that are not within their control.”<sup>3</sup> For obvious reasons, the Commission considers the ability of applicants to fully utilize their E-rate discounts to be an important consideration.

In this case, due to numerous factors beyond the control of the District’s vendors – delays in issuing funding commitment decision letters to the School District, deadline extensions for other portions of the project, and the serial nature of intelligent, cost-effective, cost-conscious network installation work – the District’s vendors simply cannot complete the 2006 Funding Year implementation by September 30, 2007.

As a practical matter, it is impossible for the District’s vendors to complete work on the 2006 implementation until FRN 1151212 work is complete. Granting a waiver in these circumstances is clearly in line with the Commission’s policy of helping applicants to use all of their discounts and of encouraging them to use those discounts wisely.

For all of the above reasons, the District requests that either the SLD or the Commission grant its request to extend the service delivery deadline for its 2006 networking implementation to September 30, 2008.

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<sup>3</sup> See, e.g., *Request for Waiver of the September 30, 2000 Deadline for Implementation of Non-Recurring Services by Baldwin County Board of Education*, Federal-State Joint Board on Universal Service, Order, CC Docket No. 96-45, DA No. 01-747, 16 FCC Red 7053 (Com. Car. Bur. 2001) and *Edcouch-Elsa Independent School District*, DA No.03-2918 (2003) [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-03-2918A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-03-2918A1.doc)



May 11, 2007  
Page 4

The District believes the requested extension maximizes the advantage of the E-Rate program by making superior technology available to a greater number of students. Please contact my office at (773) 553-1336 or Barton J. Taylor, E-Rate Director at (773) 553-3706 with any questions regarding this request.

Sincerely,



Robert W. Runcie  
Chief Information Officer

Cc: Katie Zalewski – Telecommunications Director  
Steve Dorner-Deputy Chief Information Officer for Infrastructure

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**Administrator's Decision on Implementation Extension Request**

July 2, 2007

Robert W. Runcie  
Chicago Public Schools  
125 South Clark Street, 3<sup>rd</sup> Floor  
Chicago, IL 60603

471 Application Number: 517618  
Funding Request Number(s): 1439048  
Your Correspondence Dated: May 11, 2007

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your implementation extension request. This letter explains the basis of SLD's decision.

FRN(s): 1439048

Decision on Appeal: **Approved**

Since you have established circumstances beyond your named service provider's control that prevent you from meeting the established deadline for the delivery and installation of non-recurring services, you are granted an extension in accordance with the FCC Report and Order (FCC 01-195) released on June 29, 2001. The last date to deliver and install the non-recurring service(s) is September 30, 2008. While invoices should be submitted as soon as possible, the last allowable date to postmark an invoice for this non-recurring service(s) is January 28, 2009. The invoice should be submitted in accordance with the instructions on the Schools and Libraries web site ([www.usac.org/sl/](http://www.usac.org/sl/)).

Please note that recurring services covered by this FRN must have been received during the course of regular program year, July 1, 2006 through June 30, 2007.

In order to process invoices, a valid Form 486 must be submitted by the Form 471 applicant.

In order to process eventual invoices on the non-recurring services, we will also require the applicant on the above-referenced Form 471 to file a Form 500 to amend the contract

expiration date to September 30, 2008. Such extension of the contract expiration date must be in accordance with state and local procurement laws and the terms of the original contract.

We thank you for your continued support, patience, and cooperation during the request review process.

Schools and Libraries Division  
Universal Service Administrative Company

cc: Molly Ludlow, Mitel Networks, Inc.



Service Delivery Deadline Extension Request

July 23, 2009

VIA FEDERAL EXPRESS

Service Delivery Extension Request  
Schools and Libraries Division  
Box 125 – Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981

**RE: Service Delivery Deadline Extension Request**

<b>Applicant Name:</b>	<b>Chicago Public Schools</b>
<b>Entity Number:</b>	<b>135749</b>
<b>Form 471 Application Numbers:</b>	<b>517618</b>
<b>Funding Request Number:</b>	<b>1439048</b>
<b>Funding Year:</b>	<b>FY 2006 (July 1, 2006 – September 30, 2007)</b>
<b>Service Provider Name:</b>	<b>Mitel Networks, Inc. / SPIN # 143005046</b>
<b>Funding Commitment Amount:</b>	<b>\$4,252,723.37</b>
<b>Form 471 Application Numbers:</b>	<b>542649</b>
<b>Funding Request Number:</b>	<b>1569241</b>
<b>Funding Year:</b>	<b>FY 2007 (July 1, 2007-September 30, 2008)</b>
<b>Service Provider Name:</b>	<b>Mitel Networks, Inc. / SPIN # 143005046</b>
<b>Funding Commitment Amount:</b>	<b>\$4,877,223.43</b>

To Whom It May Concern:

Pursuant to the Federal Communications Commission's Non-recurring Services Order<sup>1</sup>, Chicago Public Schools ("the District") respectfully requests that the Schools and Libraries Division ("SLD") extend the service delivery deadline for funding request number 1439048 (FY2006) referenced above from September 30, 2007 to September 30, 2009. In addition, the District also respectfully requests that the SLD extend the service delivery deadline for funding request number 1569241 referenced above from September 30, 2008 to September 30, 2010.

<sup>1</sup> Federal-State Joint Board on Universal Service, Report and Order, CC Docket No. 96-45, 47 C.F.R. § 54.507(d)(1) – (4) (2001)

If the SLD concludes that it does not have authority under the Non-recurring Services Order to grant the extension, the District requests that the SLD forward this Extension Request to the Commission, and that the Commission treat it as a request to waive section 54.507(d) of the rules, as special circumstances exist to justify such a waiver.

Section 54.507(d) of the Commission's rules requires recipients of E-rate commitments to complete the work covered by contracts with service providers for non-recurring services by September 30 following the close of the funding year. However, the same section of the rules also states that applicants will qualify for an extension of the implementation deadline if they satisfy certain criteria:

(3) applicants whose service providers are unable to complete implementation for reasons beyond the service provider's control;

Application # 542649 FRN 1569241 was issued an FCDL on January 16, 2008. More importantly, this previously mentioned FRN is dependent on the completion of the installation of products and services from application # 517618 FRN 1439048. In turn, FRN 1439048 is dependent on the completion of the installation of products and services from application # 442826 FRN 1285646 and application #418317 FRN 1151212.

As explained in further detail below, due to the dependency of this project with previous projects, coupled by schedule overruns due to the response of a product substitution, it is unrealistic to completely install these components by the prescribed deadlines. More so, when the project's efficiency is based on sequential installation and the previous funding year was delayed due to delivery issues and product substitution approvals, the results are a ripple effect for service delivery extensions.

The Chicago Public Schools, with over 413,000 students, is the third largest school system in the nation. As explained more fully below, it would be technologically wasteful, economically disastrous, and educationally disruptive for the District to require its service providers to attempt to complete this work by the end of the funding year for non-recurring services. Accordingly, for E-rate-related administrative reasons that are beyond anyone's control, the District's service provider cannot realistically be expected to complete the 2006 funding year implementation by the deadline of September 30<sup>th</sup>, 2007 or complete the 2007 funding year implementation by the deadline of September 30<sup>th</sup> 2008.

The following factors that are beyond the control of the District's service providers also prevent them from completing the work associated with the Year 2006 Internal Connections FRN 1439048 by September 30, 2007 and the Year 2007 Internal Connections FRN 1569241 by September 30, 2008:

- **The District's Vendors Cannot Begin nor Complete Work on the FY2006 or FY2007 until Implementation of FY2005 Application #442826-FRN 1285646 and 2004 Application #418317- FRN 1151212 are Completed.**

On June 2, 2005, CPS filed a service substitution request for the purchase of Converged Hybrid Voice/Data Network Equipment and Services for Funding Year 2004. CPS received the approval on September 28<sup>th</sup>, 2005. Because a Funding Commitment Decision Letter (FCDL) was not issued by the SLD until January 11, 2005, CPS was unable to start the project as planned on July 1, 2004. Given the lapse of time between the submission of the Form 471 and the issuance of the FCDL—almost 11 months—certain products had been updated due to technological advancements and those originally specified in the application were no longer available. Since CPS had not yet received notice of approval from the SLD until September 28<sup>th</sup>, 2005, regarding the service substitution, Mitel Networks, Inc. was not able to proceed with and complete delivery and installation of all FY2004 sites for reasons beyond their control.

Given the delays in both the funding commitment and the service substitution review and approval and the additional time required to implement FRN 1151212 and FRN 1285646, coupled with the interdependencies it has with other subsequent projects, we respectfully request the service delivery deadline extension so that the project can be completed.

It is evident, therefore, that the inability of the District's vendors to complete the 2006 and 2007 projects by their current deadlines is the result of circumstances clearly beyond their control.

Specifically, the following issues need further consideration:

- ♦ Installation and equipment for FRN 1439048 will not be completed until September 30<sup>th</sup>, 2009
- ♦ Installation and equipment for FRN 1569241 will not be completed until September 30<sup>th</sup> 2010

### Request for Waiver

In addition to the specific extension-triggering events that the Commission included in its Non-recurring Services Order, the Commission has recognized repeatedly that other external circumstances can create "situations where deadlines are both impractical and unreasonable," and that granting a waiver of section 54.507(d) of the rules in those circumstances is consistent with the Commission's "long-standing policy of ensuring that applicants for non-recurring services are not penalized for delays that are not within their control."<sup>2</sup> For obvious reasons, the Commission considers the ability of applicants to fully utilize their E-rate discounts to be an important consideration.

In this case, due to numerous factors beyond the control of the District's vendors – delays in issuing funding commitment decision letters to the School District, deadline extensions for other portions of the project, and the serial nature of intelligent, cost-effective, cost-conscious network installation work – the District's vendors simply cannot complete the 2006 and 2007 Funding Year implementation by the current deadlines.

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<sup>2</sup> See, e.g., *Request for Waiver of the September 30, 2000 Deadline for Implementation of Non-Recurring Services by Baldwin County Board of Education*, Federal-State Joint Board on Universal Service, Order, CC Docket No. 96-45, DA No. 01-747, 16 FCC Red 7053 (Com. Car. Bur. 2001) and *Edcouch-Elsa Independent School District*, DA No.03-2918 (2003) [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-03-2918A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-03-2918A1.doc)



## CPS Information & Technology Services

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As a practical matter, it is impossible for the District's vendors to complete work on the 2006 implementation until FRN1285646 work is complete. In turn, work on the 2007 implementation cannot be completed until FRN1439048 work is complete. Granting a waiver in these circumstances is clearly in line with the Commission's policy of helping applicants to use all of their discounts and of encouraging them to use those discounts wisely.

For all of the above reasons, the District requests that either the SLD or the Commission grant its request to extend the service delivery deadline for its 2006 networking implementation to September 30, 2009 and extend the service delivery deadline for its 2007 networking implementation to September 30, 2010.

The District believes the requested extension maximizes the advantage of the E-Rate program by making superior technology available to a greater number of students. Please contact Pamela Flowers, E-Rate Manager at (773) 553-1352 with any questions regarding this request.

Sincerely,

Arshele Stevens  
Chief Information Officer

Cc: Katie Zalewski – Telecommunications Manager  
Edward Wagner-Director of Infrastructure Services  
Pamela Flowers- E-Rate Manager



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**Administrator's Decision on Implementation Extension Request**

September 30, 2009

Arshele Stevens  
Chicago Public Schools  
125 S. Clark St. 3<sup>rd</sup> Floor  
Chicago, IL 60603

471 Application Number: 517618  
Funding Request Number(s): 1439048  
Your Correspondence Dated: July 27, 2009

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your implementation extension request. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your request included more than one 471 Application, please note that for each application you will receive a separate determination letter.

FRN(s): 1439048

Decision on Appeal: **Denied in full**

Explanation: Request received after the FCC deadline for Implementation Deadline Extension requests which was 9/30/2008.

In accordance with the FCC Report and Order (FCC 01-195) released on June 29, 2001, the Administrator may grant an extension of time for the implementation of non-recurring services if the implementation is delayed for circumstances beyond the named service provider's control. You have been unable to establish such circumstances.

**TO APPEAL THIS DECISION:**

If you wish to appeal a decision in this letter, your appeal must be received by the SLD or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:



1. Include the name, address, telephone number, fax number, and e-mail address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the decision letter and the decision you are appealing:
  - appellant name,
  - applicant or service provider name,
  - BEN and/or SPIN,
  - Form 471 and FRN
  - invoice number as assigned by the SLD,
  - “Administrator’s Decision on Invoice Deadline Extension Request” dated 09/22/2009, **AND**
  - the exact text or the decision that you are appealing.
3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by the SLD’s decision. If you are a service provider, please provide a copy of your appeal to the applicant affected by the SLD’s decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to the SLD by e-mail, use the “Submit a Question” feature on the web site at [www.usac.org/sl/](http://www.usac.org/sl/). Click “Continue,” choose “Appeals” from the Topics Inquiry on the lower portion of your screen, and click “Go” to begin your appeal submission. The system will prompt you through the process. The SLD will automatically reply to incoming e-mails to confirm receipt.

To submit your appeal to the SLD by fax, fax your appeal to (973) 599-6542.

To submit your appeal to the SLD on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division  
100 South Jefferson Road  
P.O. Box 902  
Whippany, NJ 07981

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this

letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our web site. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

Schools and Libraries Division  
Universal Service Administrative Company

cc: Michele Maggard, Mitel Networks, Inc.

**REQUEST FOR APPEAL**

November 29, 2009

**VIA FEDERAL EXPRESS**

Letter of Appeal  
Schools and Libraries Division  
Box 125 – Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981

**RE: Request for Review****SLD Action Being Appealed:**

**Administrator's Decision on Implementation  
Extension Request dated September 30, 2009**

**Applicant Name:**  
**Entity Number:**  
**Form 471 Application Numbers:**  
**Funding Request Number:**  
**Funding Year:**  
**Service Provider Name:**  
**Contact for this Appeal:**

**Chicago Public Schools  
135749  
517618  
1439048  
FY 2006 (July 1, 2006 – September 30, 2007)  
Mitel Networks, Inc. / SPIN # 143005046**

**Pamela Flowers  
E-Rate Manager  
Chicago Public Schools  
125 S. Clark Street  
Chicago, IL 60603  
Telephone: 773-553-1352**

**To Whom It May Concern:**

Request for Implementation Extension Request for the referenced FRN was denied by USAC for the stated reason that: "Request received after the FCC deadline for Implementation Deadline Extension requests which was 9/30/2008." This document is being filed by Chicago Public Schools ("CPS") to appeal this implementation extension request denial. In the event this appeal is denied by USAC, CPS asks that USAC explain and quantify the basis for the appeal denial so as to provide CPS with adequate means to further pursue its appeal options with the Commission.

**Discussion:**

Chicago Public Schools, with over 433,000 students, is the third largest school system in the nation. The District has been working aggressively to complete a multi-year Converged Hybrid Voice/Data Network Equipment and Services project. This project was dependent on the completion of

FY2004 FRN1151212 was granted an implementation service delivery extension to September 30, 2007;  
FY2005 FRN1285646 was granted an implementation service delivery extension to September 30, 2008;



## CPS Information & Technology Services

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On May 11, 2007, the District respectfully requested an implementation service delivery extension for FY2006 FRN1439048. Unfortunately, there was a clerical error in the letter and the true intention of the request was for an implementation service delivery extension deadline of September 30, 2009. The request with the incorrect implementation service delivery date was granted on July 2, 2007.

On July 27, 2009, the District respectfully requested an implementation service delivery extension for FY2006 FRN1439048 to September 30, 2009 and FY2007 FRN1569241 to September 30, 2010. The request for FRN1569241 was approved while the request for FRN1439048 was denied in full.

When a project's efficiency is based on sequential installation and prior funding years' completion dates were delayed due to factors including funding commitment delays, completion of interdependent projects and product substitution approvals, the result is a ripple effect for service delivery extensions. Accordingly, for E-Rate-related administrative reasons that are beyond anyone's control, the District's service provider could not realistically be expected to complete the 2005 and 2006 funding year implementations by the deadline of September 30, 2008 without increases in costs and substantial disruptions to classrooms throughout the District.

The District sincerely apologizes for the clerical error in the Service Extension Request dated July 2, 2007 and once again respectfully requests that the Schools and Libraries Division ("SLD") extend the service delivery deadline for funding request number 1439048 (FY2006) to September 30, 2009. All implementation work related to FRN1439048 was successfully implemented by September 30, 2009 and the District is confident that all related invoices will be submitted prior to January 28, 2010.

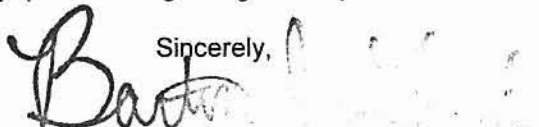
### Summary:

Due to numerous factors beyond the control of the District's vendor – delays in issuing funding commitment decision letters to the School District, deadline extensions for other portions of the project, and the serial nature of intelligent, cost-effective, cost-conscious network installation work – the District's vendors simply could not complete the 2006 Funding Year implementation by the current deadline.

Granting a waiver in these circumstances is clearly in line with the Commission's policy of helping applicants to use all of their discounts and of encouraging them to use those discounts wisely.

For all of the above reasons, the District requests that either the SLD or the Commission grant its request to extend the service delivery deadline for its 2006 networking implementation to September 30, 2009.

The District believes the requested extension maximizes the advantage of the E-Rate program by making superior technology available to a greater number of students. Please contact Pamela Flowers, E-Rate Manager at (773) 553-1352 with any questions regarding this request.

Sincerely,  
  
Barton J. Taylor  
E-Rate Director

Cc: Katie Zalewski-Telecommunications Manager  
Edward Wagner-Director of Infrastructure Services

**Administrator's Decision on Implementation Extension Appeal**

January 21, 2010

Barton Taylor  
Chicago Public Schools  
125 South Clark Street, 3<sup>rd</sup> Floor  
Chicago, IL 60603

Re: Your appeal of the denial of your implementation extension request

471 Application Number:	517618
Funding Request Number(s)	1439048
Correspondence Dated:	November 29, 2009

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company has made its decision in regard to your appeal.

<u>Funding Request Number(s):</u>	1439048
Decision on Appeal:	<b>Denied in full</b>

FCC Rules related to the payment of support for discounted services establish deadlines for service providers to deliver services/products to the applicant. The FCC provides an extension of this deadline under certain conditions. Those conditions are documented in the Reference area on the USAC website. (See [Service Delivery Deadlines and Extension Requests](#) for more information.). In accordance with FCC Report and Order (FCC 01-195) released on June 29, 2001, in order to provide additional time to implement contracts or agreements with service providers for non-recurring services, applicants must submit documentation to the Administrator requesting relief on or before the original non-recurring services deadline.

Your appeal has not brought forth clear information establishing that application for relief was made prior to this deadline. Therefore, your appeal is denied.

If you believe there is a basis for further examination of your application, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

Schools and Libraries Division  
Universal Service Administrative Company

Cc:

Michele Maggard  
Mitel Networks, Inc  
7300 West Boston Street  
Chandler, AZ 85226